

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1629 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.M.SONI and  
MR.JUSTICE H.R.SHELAT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
  2. To be referred to the Reporter or not?
  3. Whether Their Lordships wish to see the fair copy of the judgement?
  4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge?

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UNION OF INDIA

Versus

RAVECHEE & CO.

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Appearance:

MR JC SHETH for Petitioners

Mr. Mukund G. Nagarkar, Advocate for Respondent No. 1

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CORAM : MR.JUSTICE S.M.SONI and  
MR.JUSTICE H.R.SHELAT

Date of decision: 19/06/98

ORAL JUDGEMENT

At the request of the learned Advocates for the parties, this matter is taken up for final hearing today.

Order dated 21st August, 1993 directing opponent

to appoint a new arbitrator in place of Smt. Rashmi Kapoor is challenged in this appeal.

The learned Advocates for the parties on instructions agree and submit before the Court to modify that order and requests the Court to appoint Mr. R.K. Sinha( F.A. & C.A.O.) W.S.T and Mr. N.K. Gupta (C.E.) Construction and Survey as arbitrator. They also agree and requests the Court that said arbitrators will be at liberty to decide arbitrability of the claims other than those of which arbitrability is already decided. In view of this fact they want the order under appeal to be substituted by the following order:

1. Mr. R.K. Sinha (F.A. & C.A.O.) W.S.T.. and Mr. N.K. Gupta (C.E.) Construction & Survey will be the arbitrators who are on panel of Railway will also arbitrate upon the contentions raised by the Railway, as to the arbitrability of rest of the claims advanced by the contractor and they will do so with reference to Arbitration Agreement. It is further agreed that the arbitrator will decide this question as preliminary question or issue.
2. The claim decided to be arbitrable will not be the subject matter of Special Civil Suit no.98 of 1995 pending before the learned Civil Judge(S.D.) at Valsad and the contractor will have to withdraw the same claim from suit.
3. The arbitrator will make and publish his award within a period of four months from the date of receipt of the Reference by him. If extension of time to make and publish the award is necessary, either party will be at liberty to move the trial Court for the same.

We accordingly allow the appeal with no order as to costs and the order in appeal is substituted by the order referred above.

(S.M.soni,J.)

(H.R.Shelat,J.)

